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12 *Attorneys for Defendant Simon Property Group, Inc.*

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 JOHN CHARLES ASMUSSEN, an  
16 individual,

17 CASE NO.: 2:18-cv-01252-JCM-PAL

18 Plaintiff,

19 vs.  
20 **STIPULATION AND ORDER  
21 REGARDING PLAINTIFF'S  
22 INDEPENDENT MEDICAL  
23 EXAMINATION**

24 SIMON PROPERTY GROUP, INC., a  
25 foreign corporation; DOES I through X;  
26 and ROE CORPORATIONS I through X,  
27 inclusive,

28 Defendants.

29 The parties to this action, by and through their respective:

30 1. Plaintiff will undergo one Independent Medical Examination ("examination") with Dr.  
31 Selznick ("defense medical examiner"). No other medical doctor, physician, surgeon,  
32 chiropractor, defense attorney, adjuster or insurance representative shall be present during  
33 the examination. If necessary, the defense medical examiner may utilize a staff member of  
34 his medical staff to assist during the examination;

35 2. Defendant will provide the defense medical examiners with Plaintiff's medical  
36 records, as disclosed by Plaintiff and Defendant, to determine the body parts at issue and  
37 the scope of the examination. Plaintiff is not required to bring any medical records, medical  
38 billings, or diagnostic film(s) with his to the examination;

- 1 3. The defense medical examiner shall not make any inquiry regarding liability or
- 2 comparative fault;
- 3 4. The date and time of Plaintiff's examination shall be coordinated through Plaintiff's
- 4 counsel's office;
- 5 5. The defense medical examiner shall retain all handwritten notes, emails sent and
- 6 received, all documents generated or received, including draft reports, related to the
- 7 examination;
- 8 6. The defense medical examiner shall accurately report his findings and test results;
- 9 7. The defense medical examiner shall produce a copy of his entire file upon request
- 10 by Plaintiff's counsel, including the production of any test materials/raw data but will not be
- 11 required to produce his entire file until 30 days after the examination;
- 12 8. The examination shall be held in a medical office in compliance with HIPAA;
- 13 9. No x-rays, CT scans, MRI's or procedures shall be permitted of the Plaintiff during
- 14 the examination, however, Plaintiff's counsel agrees to produce all film studies relevant to
- 15 this litigation pursuant to FRCP 26;
- 16 10. Plaintiff reserves the right to terminate the examination in the event the defense
- 17 medical examiner subjects him to physically painful or intrusive procedures;
- 18 11. No invasive procedures are allowed during the examination;
- 19 12. The defense medical examiner shall not engage in *ex parte* communication with
- 20 Plaintiff's treating health care providers;
- 21 13. Upon completion of the written examination report, the defense medical examiner
- 22 shall simultaneously provide a copy of the same to defense counsel and Plaintiff's counsel;
- 23 14. All opinions, tests, exams and other materials of the defense medical examiner
- 24 must be disclosed within the written examination report; items that are not listed within the
- 25 written examination report cannot later be supplemented as part of the basis of the
- 26 examiner's opinions; and
- 27 15. Defendant will produce the defense medical examiner's report and complete file to
- 28 Plaintiff's counsel within thirty (30) days of the date of the examination.

1 DATED this 17<sup>th</sup> day of October, 2018.

2 MAIER GUTIERREZ & ASSOCIATES

3  
4 */s/ Joseph Gutierrez*

5 By: \_\_\_\_\_

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12 *Attorneys for Plaintiff*

DATED this 17<sup>th</sup> day of October, 2018.

LEWIS BRISBOIS BISGAARD & SMITH LLP

13 */s/ Stephanie Garabedian*

14 By: \_\_\_\_\_

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22 *Attorneys for Defendant*

23 IT IS SO ORDERED:

24   
25 UNITED STATES MAGISTRATE JUDGE

26 DATED: October 19, 2018